

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17534 of 2006

Dated: 22-09-2006

Between:

Jakkidi Ram Reddy and another.

..... PETITIONERS

AND

The Government of Andhra Pradesh, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.17534 of 2006

ORDER:

The two petitioners are residents of Saroornagar. They claimed to be the legal heirs of one Jakkidi Bal Reddy who was in occupation of Inam land in survey No.132 admeasuring Acs.7.20 guntas situated at Sahebnagar kalan Village of Hayathnagar Mandal in Ranga Reddy District. Respondent No.4 and another filed application before respondent No.3 under Section 8 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) claiming to be registered as occupants in respect of subject land. They also sought Occupancy Right Certificate (ORC). After receiving notice from respondent No.3, the petitioners filed joint petition claiming ORC. After conducting enquiry under Section 10 of the Act, respondent No.3, by proceedings dated 08-04-2005, issued ORC in favour of the petitioners rejecting the claim of respondent No.4 and another. Aggrieved by the same, respondent Nos.5 to 9 filed an appeal, being case No.F1/490/2006 under Section 24 of the Act before the Joint Collector, respondent No.2 herein. By impugned order dated 27-06-2006, the appellate authority allowed the appeal setting aside the proceedings of respondent No.3 dated 08-04-2005 on the ground that subject land is not agricultural land and therefore, ORC cannot be issued. In this writ petition, the petitioners challenge proceedings/order dated 27-06-2006 of respondent No.2.

At the stage of preliminary hearing on 23-08-2006, 25-08-2006 and 01-09-2006, the learned counsel for the petitioners contended that while entertaining the appeal under Section 24 of the Act, respondent No.2 did not issue any notice to the petitioners and therefore, the order is not sustainable. In view of this, the matter was adjourned to enable the learned Assistant Government Pleader for Revenue (General) to get instructions. This Court also ordered notice to respondent Nos.4 to 8. After receiving notice, respondent Nos.5 to 9 engaged Sri A.H. Chakravarthi, counsel, and though notice is served on respondent No.4, none appears for him. The matter is appearing today on the top of the list. Though the name of the learned counsel for respondent

Nos.5 to 9 is appearing in the list, the learned counsel is absent and there is no representation. Respondent No.4 is absent, none appears for him.

The learned Assistant Government Pleader for Revenue (General) does not dispute that before passing the impugned order, respondent No.2 failed to issue any notice. It is no gain saying that if ORC is issued to the petitioners or their predecessors, setting aside the same without hearing them or giving a notice to them, would certainly violates the rule of *audi alteram partem*. Under the extant legal dispensation when once a person is registered as occupant of Inam land and ORC is issued, such person gets absolute right over the land. In this case, RDO issued ORC on 08-04-2005 and the same has been set aside by respondent No.2 without issuing notice to the petitioners. It would certainly deprive the petitioners of their right to the land. On this ground alone, the impugned order cannot be sustained.

The writ petition is allowed and the impugned order of respondent No.2 dated 27-06-2006 is set aside. The matter is remanded to respondent No.2 with a direction to give notice to the petitioners and dispose of the same afresh after hearing the petitioners. This exercise may be completed within a period of three months from the date of receipt of a copy of this order. No costs.

22nd September, 2006
ghn

(V.V.S.RAO, J)